

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
St. Joseph High School	)	File No. SLD-234540
St. Croix, Virgin Islands	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: November 7, 2002**

**Released: November 8, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by St. Joseph High School (St. Joseph), St. Croix, Virgin Islands, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> St. Joseph seeks review of the denial of two of its Funding Year 2001 funding requests.<sup>2</sup> For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant

<sup>1</sup> Letter from Roy D. Roberts, St. Joseph High School, to Federal Communications Commission, filed January 17, 2002 (Request for Review).

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c). In prior years, Funding Year 2001 was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 2001 and ended on June 30, 2002, is now called Funding Year 2001. The funding period that began on July 1, 2002 and ends on June 30, 2003 is now known as Funding Year 2002, and so on.

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into binding agreements for eligible services, it files an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>5</sup> Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible.<sup>6</sup>

3. SLD denied Funding Request Numbers (FRNs) 573430 and 573456, finding that "[n]o contract or legally binding agreement was in place when the Form 471 was filed."<sup>7</sup> St. Joseph appealed, attaching a contract signed on January 16, 2001.<sup>8</sup> SLD denied the appeal.<sup>9</sup> It stated:

On your original Form 471, you identified the contract award and expiration dates to be 1/16/2001 and 6/30/2002 for the above funding requests. When asked if you had any binding commitment with the vendors prior to 1/16/2001, you indicated to PIA that there were no binding agreements with the vendors. Program rules require applicants to have legally binding contracts prior to the submission of their Forms 471. Your on-line application completed date was 1/15/2001. Consequently, SLD denied your appeal . . . since no contract or legally binding agreement was in place when the Form 471 was filed.<sup>10</sup>

4. St. Joseph then filed the pending Request for Review. It asserts that, due to a clerical error, it omitted the true contract from its Appeal to SLD, and attaches what it asserts is a legally binding contract with its service provider signed prior to January 15, 2001.<sup>11</sup> However, it does not deny that, in its application and during application review, it asserted that there was no such contract. St. Joseph may not submit new evidence in an application for review to correct

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<sup>4</sup> 47 C.F.R. § 54.504 (b)(1), (b)(3).

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. § 54.504(c).

<sup>7</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sr. Claina Letang, St. Joseph High School, dated July 23, 2001 (Funding Commitment Decision Letter), at 6.

<sup>8</sup> Letter from Susan Diverio, St. Joseph High School, to Schools and Libraries Division, Universal Service Administrative Company, filed August 20, 2001 (Appeal to SLD).

<sup>9</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Susan Diverio, St. Joseph High School, dated November 19, 2001 (Administrator's Decision on Appeal).

<sup>10</sup> *Id.* at 1.

<sup>11</sup> Request for Review.

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that error.<sup>12</sup> Therefore, substantially for the reasons stated by SLD in the Administrator's Decision on Appeal, we deny the Request for Review.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by St. Joseph High School, St. Croix, Virgin Islands, on January 17, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireless Competition Bureau

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<sup>12</sup> *Request for Review by Colonial Beach School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-176456, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 11866, para. 8 (Wireline Comp. Bur. 2002).